

REMARKS

This is a Response to the Office Action mailed November 3, 2006, in which a three (3) month Shortened Statutory Period for Response has been set, due to expire February 3, 2007. Twenty-five (25) claims, including four (4) independent claims, were paid for in the application. No new matter has been added to the application. No fee for additional claims is due by way of this Amendment. The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090. Claims 1-25 remain pending.

1. Acknowledgement of Withdrawal of Objection

Applicants acknowledge withdrawal of the objection to claims 19 and 20 made in the Office Action mailed April 20, 2006. Applicants thank the Examiner for reconsidering the objection and withdrawing the objection.

2. Withdrawal of the Finality of the Office Action Mailed August 21, 2006

Applicants acknowledge withdrawal of the finality of the Office Action mailed August 21, 2006. Applicants thank the Examiner for reconsidering the finality of the Office Action and issuing the present Non-Final Office Action.

3. Rejections Under 35 U.S.C. § 103(a)

In the Office Action, at paragraph 5, claims 19-20 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Janonis*. (U.S. Patent 5,612,580), hereinafter *Janonis*. It is well-established at law that, for a proper rejection of a claim under 35 U.S.C. § 103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. See, e.g., *In Re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981).

a. Independent Claim 19

Claim 19 is allowable for at least the reason that *Janonis* does not disclose, teach, or suggest at least the feature of “establishing a first DC bus voltage threshold indicative of a first power source irregularity and a second DC bus voltage threshold indicative of a second and distinct power source irregularity, wherein the first threshold is greater than the second threshold; comparing the DC bus voltage to the first and second thresholds; *commuting electrical power from both the power source and from the DC power supply to the DC bus* when the DC bus voltage is intermediate the first and second thresholds,” as recited in claim 19 (emphasis added).

Janonis is limited to disclosing that, when operating in the first “On-Line” mode, the energy storage device 28 is not used. The *Janonis* first “On-Line” mode is described at column 3, lines 36-59, repeated below for convenience (emphasis added):

The uninterruptible power supply 10 may operate in a first mode or a second mode once it enters the "On-Line" mode. In a ***first "On-Line" mode***, the power source line 12 signal has sagged below the first predetermined threshold (e.g., 95 VAC-105 VAC depending upon user setting) but not below a second predetermined threshold (e.g., 75 VAC), or exceeded the permissible range of frequency deviation (e.g., 1-3 Hz). The processor 20 may detect a sag or frequency deviation in the power source line 12 power through the line condition sensor 18.

The processor 20 maintains the system switch 22 in a closed position in the first "On-Line" mode. Therefore, power source line 12 power is applied to a line booster circuit 56.

The line booster circuit 56 essentially trades current from the power source line 12 for output voltage in the first "On-Line" mode of operation. ***This operation of the uninterruptible power supply 10 is advantageous inasmuch as the reserve power source the energy storage device 28 is not depleted during the first "On-Line" mode of operation and the energy storage device 28 power may be reserved for sags in the power source line 12 which drop below a second threshold.***

The *Janonis* first “On-Line” mode is clearly defined to occur when the power source line signal 12 is below the first predetermined threshold, but above the second predetermined threshold. Accordingly, the *Janonis* first “On-Line” mode of operation corresponds to the recited condition “when the DC bus voltage is intermediate the first and second thresholds.”

Furthermore, the *Janonis* line booster circuit 56, illustrated in Fig. 1, clearly excludes the energy storage device 28. Accordingly, during the *Janonis* first “On-Line” mode, when the line booster circuit 56 essentially trades current from the power source line 12 for output voltage, the booster circuit 56 is not using the energy storage device 28.

Thus, *Janonis* fails to disclose, teach or suggest every element of the Applicants’ claimed invention. Furthermore, it would not be possible to take Official Notice that the recited feature of claim 19, namely, that the electrical power from both the power source and from the DC power is commuted to supply to the DC bus when the DC bus voltage is intermediate the first and second thresholds, because taking such Official Notice would be directly contrary to the express teachings of *Janonis*. Accordingly, *Janonis* cannot be properly modified to teach, disclose or suggest the above-recited limitations of claim 19. Therefore, a *prima facie* case establishing an obviousness rejection by *Janonis* has not been made. Thus, claim 19 is not obvious under *Janonis*, and the rejection should be withdrawn.

b. Claim 20

Because independent claim 19 is allowable over the cited art of record, dependent claim 20 (which depends from independent claim 19) is allowable as a matter of law for at least the reason that dependent claim 20 contains all features/elements of independent claim 19. See, *e.g.*, *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Accordingly, the rejection to claim 20 should be withdrawn.

4. Rejections Under 35 U.S.C. § 103(a)

In the Office Action, at paragraph 6, claims 1-5, 8-14, 17-18, 21-23, and 25 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Janonis* in view of *Tassitino* (U.S. Patent 5,633,539), hereinafter *Tassitino*. It is well-established at law that, for a proper rejection of a claim under 35 U.S.C. § 103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. See, *e.g.*, *In Re Dow Chemical*, 5

U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981).

a. Independent Claims 1, 10, and 21

Claim 1 is allowable for at least the reason that the proposed combination of *Janonis* in view of *Tassitino* does not disclose, teach, or suggest at least the feature of “establishing a first DC bus voltage threshold indicative of a first power source irregularity and a second DC bus voltage threshold indicative of a second and distinct power source irregularity, wherein the first threshold is greater than the second threshold; comparing the DC bus voltage to the first and second thresholds; commuting electrical power from both the power source and from the DC power supply to the DC bus when the DC bus voltage is intermediate the first and second thresholds,” as recited in claim 1. Also, claim 10 is allowable for at least the reason that the proposed combination of *Janonis* in view of *Tassitino* does not disclose, teach, or suggest at least the feature of “establishing means for establishing a first DC bus voltage threshold indicative of a first power source irregularity and a second DC bus voltage threshold indicative of a second and distinct power source irregularity, wherein the first threshold is greater than the second threshold; comparing means for comparing the DC bus voltage to the first and second thresholds; and commuting means for commuting electrical power from both the power source and from the DC power supply to the DC bus when the DC bus voltage is intermediate the first and second thresholds, and for conversely commuting electrical power only from the DC power supply to the DC bus when the DC bus voltage is less than the second threshold and for disabling the source converter,” as recited in claim 10. Furthermore, claim 21 is allowable for at least the reason that the proposed combination of *Janonis* in view of *Tassitino* does not disclose, teach, or suggest at least the feature of “a controller configured to compare the DC bus voltage to a first DC bus voltage threshold indicative of a first power source irregularity and a second DC bus voltage threshold indicative of a second and distinct power source irregularity, wherein the first threshold is greater than the second threshold; and further configured to provide control signals to at least one of the three phase AC source converter and the three phase AC load converter to commute electrical power from both the power source and from the DC power supply to the DC

bus when the DC bus voltage is intermediate the first and second thresholds, and for conversely commuting electrical power only from the DC power supply to the DC bus when the DC bus voltage is less than the second threshold and for disabling the source converter,” as recited in claim 21.

As noted above in the arguments for allowability of claim 19, *Janonis* is apparently limited to, at most, a system where the energy storage device 28 is not used when the voltage is intermediate the first and second thresholds. Thus, *Janonis* fails to disclose, teach or suggest every element of the Applicants’ claimed invention.

Tassitino also fails to disclose, teach or suggest the above-recited features of claims 1, 10, or 12. *Tassitino* is relied upon by the Office Action because it “discloses an uninterruptible power supply system (figure 1, item 100), comprising a three phase AC source converter (item 160) connectable to a three phase AC power source (item 110) and a three phase AC load converter (item 130) connectable to a three phase load (item 130), wherein the converters are interconnected by a DC bus,” as noted in the Office Action at page 8. However, *Tassitino* fails to disclose, teach or suggest the above-recited features of claims 1, 10, or 21. Thus, *Tassitino* fails to disclose, teach or suggest every element of the Applicants’ claimed invention and cannot be used to cure the deficiency in the *Janonis* disclosure.

Accordingly, the proposed combination of *Janonis* in view of *Tassitino* does not teach at least the above-recited limitations of claims 1, 10, or 21. Therefore, a *prima facie* case establishing an obviousness rejection by *Janonis* in view of *Tassitino* has not been made. Thus, claims 1, 10, or 21 are not obvious under proposed combination of *Janonis* in view of *Tassitino*, and the rejection should be withdrawn.

b. Claims 2-5, 8-9, 11-14, 17-18, 22-23, and 25

Because independent claim 1 is allowable over the cited art of record, dependent claims 2-5 and 8-9 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that dependent claims 2-5 and 8-9 contain all of the features/elements of independent claim 1. Similarly, because independent claims 10 and 21 are allowable over the cited art of record, dependent claims 11-14 and 17-18 (which depend from independent claim 10), and

dependent claims 22-23 and 25 (which depend from independent claim 21), are allowable as a matter of law for at least the reason that these dependent claims contain all of the features/elements of their respective independent claim. Accordingly, the rejection to these claims should be withdrawn.

5. Rejections Under 35 U.S.C. § 103(a)

In the Office Action, at paragraph 7, claims 6-7, 15-16, and 24 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over *Janonis* in view of *Tassitino* and further in view of *Faria* (U.S. Patent 6,295,215). Because independent claim 1 is allowable over the cited art of record, dependent claims 6-7 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that dependent claims 6-7 contain all of the features/elements of independent claim 1. Similarly, because independent claims 10 and 21 are allowable over the cited art of record, dependent claims 15-16 (which depend from independent claim 10), and dependent claim 24 (which depends from independent claim 21), are allowable as a matter of law for at least the reason that these dependent claims contain all of the features/elements of their respective independent claim. Accordingly, the rejection to these claims should be withdrawn.

6. Conclusion

In light of the above amendments and remarks, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that all pending claims 1-25 are allowable. Applicants, therefore, respectfully request that the Examiner reconsider this application and timely allow all pending claims.

The Examiner is encouraged to contact the Applicants' attorney of record by telephone to discuss the above and any other distinctions between the claims and the applied references, if desired. If the Examiner notes any informalities in the claims, he is further encouraged to contact the Applicants' attorney of record by telephone to expediently correct such informalities.

Respectfully submitted,

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